

**IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF TEXAS  
SHERMAN DIVISION**

VIRGINIA INNOVATION SCIENCES, INC.,

Plaintiff,

v.

AMAZON.COM, INC.,

Defendant.

Civil Action No. 4:18-cv-00474-ALM

JURY TRIAL DEMANDED

**PLAINTIFF’S CONTESTED MOTION TO SUBSTITUTE PARTY**

Plaintiff Virginia Innovation Sciences, Inc. hereby files this motion for an order substituting Innovation Sciences, LLC for the currently named plaintiff Virginia Innovation Sciences, Inc.

On November 9, 2018, Virginia Innovation Sciences, Inc. (“Virginia Innovation”) was merged into Innovations Sciences, LLC (“Innovation”). Innovation is a Texas limited liability company with its principal place of business at 5800 Legacy Circle, Suite 311, Plano, Texas 75024. Under the merger, Virginia Innovation was terminated, and all issued and outstanding stock of Virginia Innovation was converted into limited liability company membership interests in the surviving entity, Innovation. Accordingly, Virginia Innovation no longer holds any right, title or interest in the patents-in-suit and all such rights belong to Innovation. Innovation is, therefore, the proper plaintiff to this lawsuit and should be substituted for Virginia Innovation as the named plaintiff. Copies of the Texas and Virginia merger documents are attached to the Jackson Declaration filed herewith as Exhibits 1 and 2, respectively.

Bottomline is that Virginia Innovation completely merged into Innovation and no longer

exists. The merger is a fact. While the parties may disagree about the ramifications of the factual merger, there is no good faith basis to oppose the substitution that reflects those facts. Consequently, Plaintiff respectfully requests an order substituting Innovation Sciences, LLC for the currently named plaintiff, Virginia Innovation Sciences, Inc.

**CERTIFICATE OF CONFERENCE PURSUANT TO L.R. CV-7(I)**

Counsel for Plaintiff certifies that the parties have complied with the meet and confer requirement in L.R. CV-7(h). The undersigned counsel conferred with Defendant's counsel, Mr. Todd Gregorian, by telephone on November 29, 2018. Mr. Gregorian advised that Defendant could not agree to the requested substitution because Amazon's counsel stated that Amazon needed additional time to consider the information provided at the conference, but does not oppose Plaintiff filing the motion as contested at this time. Plaintiff's counsel indicated that Plaintiff views the present motion as an administrative motion to replace the former plaintiff with the party that, through the merger, now owns all right, title and interest in the asserted patent. Agreement was not reached, and thus, the motion is opposed.

Dated: November 29, 2018

Respectfully submitted,

/s/ Donald L. Jackson

Donald L. Jackson; VA Bar No. 42882

(Admitted E.D. Tex.)

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*Attorney for Plaintiff*

**CERTIFICATE OF SERVICE**

I hereby certify that all counsel of record who are deemed to have consented to electronic service are being served with a copy of this document via the Court's CM/ECF system per Local Rule CV-5(a)(3).

DATED: November 29, 2018

/s/ Donald L. Jackson  
Donald L. Jackson

